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June 25, 1997

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

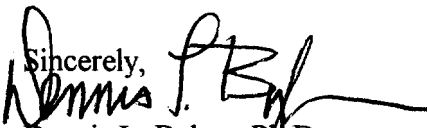
Mr. William Caton
Secretary
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Dear Mr. Secretary:

With this letter, I'm forwarding a **Petition for Reconsideration** in regards to the records management and reporting required of all schools, libraries, and/or consortia for the aggregation of demand for telecommunications services by the Federal Communications Commission (FCC) in its May 7, 1997 Order and decision on Universal Service in CC Docket 96-45.

In general, we appreciate work the FCC has accomplished in rulemaking over the last 15 months to implement school and library provisions (i.e., Section 254) of Public Law 104-104, the Telecommunications Act of 1996. They have done an extraordinary job in creating rules that begin to ensure affordable access to modern telecommunications services for America's schools and libraries. The breath and depth of their work is reflected in the 1,000 plus pages of the Commission's Order. However, we believe that the Commission has exceeded its authority in the rulemaking process by mandating local management activities which: (1) are not essential elements of the purchasing process whereby telecommunications services are acquired and of which the FCC is authorized to regulate, (2) unconstitutionally usurp State and local authority for educational decision-making, and (3) represent a reporting burden in excess of what is minimally required under the Paperwork Reduction Act by telecommunications carriers and the Universal Service Fund Administrator in order to regulate and determine that schools and/or libraries have submitted "bona fide" requests for telecommunications services in accordance with PL 104-104, Section 254(h)(1)(B).

We respectfully request reconsideration as outlined in the attached Petition.

Sincerely,

Dennis L. Bybee, Ph.D.
VP & Executive Director

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

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In the Matter of)
)
The Report And Order of the Commission)
on May 7, 1997 with respect to the)
)
Federal-State Joint Board on)
Universal Service)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No.96-45

PETITION FOR RECONSIDERATION

The Global Village Schools Institute (GVSI) submits the following request for reconsideration in response to the Commission's Report and Order in the above-captioned proceeding as published on June 17, 1997 in the Federal Register.¹

GVSI is a non-profit professional education association incorporated in the State of Virginia and whose purpose is to "promote, support and celebrate the efforts of people who are creating the next generation of American schools." GVSI has participated in these proceedings and has provided comments in the matter of Universal Service for schools and libraries both individually and as a member of the Education and Library Networks Coalition (EDLINC).

The issues we raise here for reconsideration have to do with reporting requirements that the Commission intends to place on every school and library in America in order for these eligible

¹ Federal Register, Vol. 62, No. 116, Tuesday, June 17, 1997, "Rules and Regulations", pgs. 32862-32962.

entities to obtain telecommunications services at the lowest corresponding price either with or without discounts as provided for those services in Public Law 104-104, Section 254(h)(1)(B).

Most of these reporting requirements come from the Commission's interpretation of the term "bona fide request" -- as included in Section 254(h)(1)(B) of PL 104-104 --

"All telecommunications carriers serving a geographic area shall, upon a **bona fide request** for any of its services that are within the definition of universal service under subsection (c)(3), provide such services to elementary schools, secondary schools, and libraries for education purposes at rates less than the amounts charged for similar services to other parties."

We believe that this governing statute cannot reasonably be interpreted to require most of the "application requirements" ordered as a "reporting burden" on all of America's schools and libraries by the FCC in its Universal Service Order of May 7, 1997 (i.e., paragraphs 570 - 580 in the Order and 355-364 in the Federal Register) which are summarized in paragraph 570 of the Order (i.e., 355 in the Federal Register) as follows:

"We concur with the Joint Board's finding that Congress intended to require accountability on the part of schools and libraries and, therefore, we concur with the Joint Board's recommendation and the position of most commenters that eligible schools and libraries be required to: (1) conduct internal assessments of the components necessary to use effectively the discounted services they order; (2) submit a complete description of services they seek so that it may be posted for competing providers to evaluate; and (3)

certify to certain criteria under penalty of perjury.”

In contrast to this FCC proposal where the reporting burden is placed on schools and libraries, the controlling statute actually requires that “All telecommunications carriers serving a geographic area shall...provide services...at a discount...” And, that “...A telecommunications carrier providing service under this paragraph shall-- (i) have an amount equal to the amount of the discount treated as an offset to its obligation to contribute to the mechanisms to preserve and advance universal service, or (ii) notwithstanding the provisions of subsection (e) of this section, receive reimbursement utilizing the support mechanisms to preserve and advance universal service.” [Ref: PL 104-104, Subsection 254(h)(B)]

Clearly, the only obligation placed on schools and libraries in this controlling statute is that they submit a “bona fide request” for services **to telecommunications carriers serving (their) geographic area**. All other requisite actions in the statute refer to actions between the FCC and telecommunications carriers with respect to “reimbursement” for services they provide. There is **no statutory requirement** for schools or libraries to: (1) conduct internal inventories and assessments, (2) submit a complete description of services they seek to anyone other than “all telecommunications carriers serving (their) geographic area”, or (3) to make extra-ordinary certifications with respect to pre-application activities under penalty of perjury.

The reporting requirements that the FCC intends to place on schools and libraries are inconsistent with the statute’s intent to encourage competition among providers and to provide discounts on telecommunications services that will stimulate acquisition and use of telecommunications infrastructures for educational purposes by America’s schools and libraries as

“customers” not as “grant applicants.” The FCC’s proposed rules and reporting requirements treat schools and libraries as if they were applicants for grants from the Federal government rather than customers who must be given discounts on telecommunications services by telecommunications carriers serving their geographic area in accordance with PL 104-104, Section 254(h)(B).

The FCC’s Director of AMD, Performance Evaluations and Records Management requested² approval from the Office of Management and Budget under the Paperwork Reduction Act for several requirements that it intends to place on schools and libraries in order for these entities to obtain discounted telecommunications services.

One of the most burdensome of these requirements is the FCC’s intent to require that schools and libraries requesting discounted telecommunications services create and maintain technology inventories/assessments that contain detailed information that is not presently maintained by most schools and libraries, that is not essential for internal decision-making by schools and libraries as they formulate requests to acquire discounted telecommunications services, and which are almost impossible to create and maintain with sufficient accuracy to support required certifications by local school and/or library ordering officials under penalty of perjury.

This detailed technology inventory/assessment information is included in the

² Judy E. Boley, AMD, Performance Evaluations and Records Management letter with attached Paperwork Reduction Act Submission dated May 19, 1997 titled “Federal-State Joint Board on Universal Service, CC Docket 96-45” to Ms. Sally Katzen, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

Commission's Order (i.e., in p. 572 and 47 C.F.R. s 54.504(b)(1)(i-vi) of the Order and at p.357 in the Federal Register) which states that schools and libraries are required to submit applications that include "... a technology inventory/assessment"... which must ... "at a minimum provide the following information, to the extent applicable to the services requested:

(1) the computer equipment currently available or budgeted for purchase for the current, next, or other future academic years, as well as whether the computers have modems and if so, what speed modems;

(2) the internal connections, if any, that the school or library already has in place or has budgeted to install in the current, next, or future academic years, or any specific plans relating to voluntary installations of internal connections;

(3) the computer software necessary to communicate with other computers over an internal network and over the public telecommunications network currently available or budgeted for purchase for the current, next, or future academic years;

(4) the experience of and training received by the relevant staff in the use of the equipment to be connected to the telecommunications network and training programs for which funds are committed for the current, next, or future academic years;

(5) existing or budgeted maintenance contracts to maintain computers; and

(6) the capacity of the schools' or library's electrical system to handle

simultaneous uses.”

A second excessive reporting burden is placed on schools and libraries by the Commission in its intent to require (see p. 573-574 of the Commission’s Order or p. 358-359 in the Federal Register) that “...schools and libraries must prepare specific plans for using these technologies, both over the near term and into the future, and how they plan to integrate the use of these technologies into their curriculum.”

We believe that schools and libraries should and do make plans to ensure effective utilization of any resources they acquire for educational purposes. However, we don’t believe that the authorizing statute empowers the Commission to require such educational planning, to prescribe its format or content, to review and approve the quality of such documents or to require approval of such local education planning documents by any outside party in order to receive discounted telecommunications services. We cannot envision any circumstance in which the presence, absence, or quality of such local educational planning documents would justify rejection of any local school or library request for discounted telecommunications services.

The presence, absence or quality of local educational planning documents is not currently used by any telecommunications carrier to determine if they have a “bona fide request” for telecommunications services from any school or library. And, they should not be required in any future determinations.

We also note that the Commission has not required similar detailed technology inventories/assessments and planning documents from rural health care providers although the

authorizing statute includes the exact same language with respect to the provision of telecommunications services to schools, libraries and rural health care providers upon receipt of a “bona fide request” for such services [Ref: PL 104-104, Section 254(h)(1)(A).]

FCC records manager’s request³ states that “...a simple self-certification procedure for schools and libraries would be the least burdensome way to ensure that schools and libraries are aware of the other resources that they may need to procure before ordering discounted telecommunications services and facilities .” and that⁴... “This procedure is significantly less burdensome than a proposed alternative requirement that schools and libraries secure outside approval of their technology plans from a government entity before receiving support.”

We concur that a self-certification process would be significantly less burdensome and hope that the FCC’s original intent to require specific educational planning activities or outside approval of school and library technology plans will be dropped as being incredibly and unconstitutionally intrusive upon local educational decision-making or that the originally proposed outside review process be revised in preference to school and library self-certification.

And finally, the estimates of reporting burden⁵ by the FCC in its application for authority to impose these requirements on all schools and libraries in America under the Paperwork Reduction Act do not include any of the required inventory/assessments and planning activities that we are objecting to in this Petition for Reconsideration. It is estimated that the new detailed

³ ibid #1, page 7

⁴ ibid #1, page 8

⁵ ibid #1, page 13 at points “n” and “o”

inventory/assessment activities alone will annually require at least an hour of internal survey time by every classroom teacher in America and many additional hours in the preparation and maintenance of detailed records and other summary documents by every school, library, school district office and/or consortium aggregating demand for services in order to support their required certifications under penalty of perjury. The number of burden hours required here could exceed several million and annual costs in terms of burden hours could easily exceed \$50,000,000 to \$60,000,000.

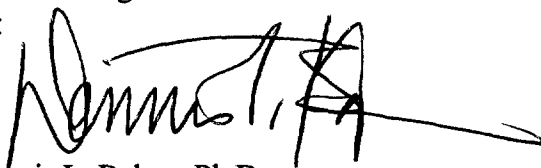
We respectfully request that the Commission: (1) not require that schools and libraries conduct or include reports of technology inventories/assessments in any application for telecommunications services (i.e., eliminate p. 572 of the Order -- as also referenced in p. 357 of the Federal Register), and (2) not require specific local educational technology planning activities, independent outside agency review and approval of local educational technology plans, or submission of any such local educational technology plans as part of any application for telecommunications services at the lowest corresponding price either with or without discounts to which they are eligible under the Commission's new Universal Service program (i.e., eliminate p. 573-574 of the Order -- as also referenced in p. 358-359 of the Federal Register.)

We believe that such application or pre-application requirements (1) are not essential elements of the purchasing process whereby telecommunications services are acquired and of which the FCC is authorized to regulate [i.e., see Communications Act of 1934, As Amended, Title I, Section 1 -- 47 U.S.C. 151 and "telecommunications" and "information services" as defined in PL 104-104, sections 3(a)(2)(41)&(48)], (2) unconstitutionally usurp State and local authority for educational decision-making [Constitution of the United States, Amendment X], and

(3) represent a reporting burden in excess of what is minimally required under the Paperwork Reduction Act by telecommunications carriers and the Universal Service Fund Administrator in order to regulate and determine that schools and/or libraries have submitted "bona fide" requests for telecommunications services in accordance with PL 104-104, Section 254(h)(1)(B).

Respectfully submitted for the
Global Village Schools Institute

by:

A handwritten signature in black ink, appearing to read "Dennis L. Bybee", with a long horizontal flourish extending to the right.

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